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REMARKS – General

By the above amendment, applicants have amended the title and specification to emphasize the novelty of the invention.

Also, applicants have rewritten all claims to define the invention more particularly and distinctly so as to overcome the technical rejections and define the invention patentably over the prior art.

New Claim Overcomes Rejection on Bozzacco

The last O.A. rejected independent Claim 1 as being anticipated by Bozzacco. Claim 1 has been canceled. Claim 2 defines patentably over this reference. Applicants request reconsideration of this rejection, as now applicable to new Claim 2 for the following reasons:

- (1) The invention offers significant structural differences over the reference.
- (2) There is no suggestion in Bozzacco or in any other prior art to modify, adapt or alter prior art to meet the new claim.
- (3) The invention solves a different problem than the reference, and this different problem is recited in the claims. *In re Wright*, 6 USPQ2d, 1959 (1988).
- (4) The invention offers an unappreciated advantage for aesthetics and safety.
- (5) The invention solves a long felt, unmet need to increase safety with an appealing, acceptable design.
- (6) The invention offers new, disproportionate and therefore unexpected results and hence is unobvious and patentable over the reference.
- (7) If the invention were obvious, those skilled in the art would have implemented it by now.

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The Reference and the Differences of the Present Invention Thereover

Prior to discussing the claims and the above seven points, applicants will first discuss the reference and the novelty of the present invention and its unobviousness over the reference.

Bozzacco shows a safety collar for pets that comprises elongated reflective attachments of sufficient length to be visible on animals with long hair. The attachments must be of a specific length and weight so as to perform properly. Central to the invention is the use of a collar that includes a fastening device. By definition, a collar must be of sufficient length to wrap around the neck of an animal. This reference offers an invention designed exclusively for the safety of longhaired animals using reflective appendages from a collar that are static and lightweight so as not to disturb the animal.

Until now, no one thought of combining retro-reflective materials and well understood self-fringe (defined as a single piece of flexible material, into which are cut a plurality of depending fringe-like members) to improve conspicuity for both form and function at night for people and vehicles. Even the reference, while showing nine highly detailed drawings of various pet collars with elongated attachments, did not show the elegant use of retro-reflective materials on self-fringe, as is done in the present invention. This invention differs from all other prior art by leveraging this appealing, sought-after style element – fringe – with retro-reflective materials to both enhance the style with nighttime visibility and provide an added safety benefit. Because this has never before been conceived or implemented, its advantages were neither known nor appreciated.

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Structural Differences over Bozzacco

The invention offers significant structural differences over the reference. Bozzacco clearly and repeatedly conveys the notion of either appendages made from material distinct from the collar described, or of a molded collar -- which includes a fastening device -- made of plastic or other moldable material. The appendages must be in a direction transverse to the principal length of the collar. The reference further specifies that minimal length -- extending beyond the length of the animal's fur -- is "essential". Finally, the reference specifies that lightweight material is critical to the device, with specific gravities less than one.

Construction

The present invention relates to a very different, and more straightforward, structure, which comprises a single piece of flexible material, say leather or rubber, into which is cut a plurality of slits to form fringe. Said fringe comprises retro-reflective material on all or part of one or more surfaces. Unlike the reference, the invention does not suggest appendages attached to a principal device, such as a collar, nor does it require any type of fastening device. Nor is it molded, as the reference may be. The invention is die-cut from a single piece of flexible material.

Further, the reference specifies that the appendages are to "...rest on top of the animal's hair or fur...", which clearly suggests a static use. That is to say, the reference intends for the device to be stationary atop the fur of the animal when in use. Unlike the reference, the invention is activated by airflow. It is an objective of the invention to increase nighttime visibility due to a

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plurality of moving parts, as the flowing fringe increases both the occurrence and impact of the reflection.

Thus, applicants submit that Claim 2 clearly recites novel physical subject matter, and is novel in structure, which distinguishes over Bozzacco.

Shape

Unlike the reference, the invention may have strips that form the principal length of the device; that is to say that the length of the fringe is significantly longer than the base from which it extends, as in fringe used on motorcycle handlebars. The reference specifies that the appendages must not "...constitute an annoyance to the animal which would tend to cause it to claw or bite them causing their destruction or removal." The invention, with fringe that extends beyond the width of the base, would be unsuitable for use as a pet safety device, and is unlike any device anticipated by the reference.

Alternatively, the invention may have strips that are extremely short, functioning as a burst-type effect, which are retro-reflectively enhanced. These short strips differ materially from the reference, which requires sufficient length to protrude beyond the long fur of animals. The specific example given for the reference is 1.5 inches for the average cat.

Thus, applicants submit that Claim 2 clearly recites novel physical subject matter, and is novel in structure, which distinguishes over Bozzacco.

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Material

The reference specifies that the appendages be of material with specific gravities less than one. An object of the present invention is to provide dramatically improved nighttime aesthetics and visual appeal with fringe that is activated by airflow. The preferred embodiment shows the fringe made from leather, which, at a specific gravity of 1.02, is sufficiently heavy to be gracefully affected by airflow, to drape properly, and to resist tangling. Alternative materials include, say, rubber, cotton, hemp, wool or vinyl, which have specific gravities ranging from 1.0 to 1.5. The reference specifically seeks material that is light enough in weight to lay atop the fur of an animal without disturbing the animal. The invention seeks material that is heavy enough to drape and not tangle, and to be gracefully affected by airflow.

Thus, applicants submit that Claim 2 clearly recites novel physical subject matter and structure, which distinguishes over Bozzacco.

Bozzacco Does Not Suggest Modification

There is no suggestion in Bozzacco, or in any other prior art, to modify prior art to meet the new claim. Bozzacco seeks to provide a safety device to protrude beyond long animal hair. No suggestion is made that this be modified for use by people or on vehicles.

Thus, applicants submit that Claim 2 is novel in both structure and use, which distinguishes over Bozzacco.

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The Invention Solves a Different Problem

Bozzacco seeks to provide a device to improve the safety of longhaired animals. Only the use of elongated strips on a pet collar is described and claimed. No mention is made about the safety of people or the conspicuity of vehicles. The present invention, with new Claim 2 solves an entirely different problem by providing a means to improve conspicuity for people and vehicles for safety and aesthetic appeal.

Thus, applicants submit that Claim 2 solves a different problem than Bozzacco, clearly recites novel physical subject matter, and is therefore patentable over the prior art.

The Invention Offers an Unappreciated Advantage

The invention offers an unappreciated advantage for aesthetics and safety. Until now, those skilled in the art did not consider the advantage of making fringe visible at night using retro-reflective material, nor did they consider incorporating the safety benefits into the appealing fringe design element. Incorporating retro-reflective materials into fringe makes the fringe nighttime visible for improved aesthetic appeal – an entirely new concept. Creating night-visible fringe using materials known for safety, not style, is a novel, unobvious physical feature, never before appreciated.

Thus, applicants submit that the invention offers an unobvious advantage for both aesthetics and safety.

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The Invention Solves a Long Felt, Unmet Need

There has long been a widely unmet need to increase nighttime safety with an appealing, acceptable design, especially for those driving motorcycles. The popularity of the I See Motorcycles bumper stickers attest to the pervasive, unmet need to improve the conspicuity of motorcycles and their drivers. The invention solves the problem by leveraging a long-appreciated, well-accepted design element – fringe – for safety, thus adding a new function to the existing form.

Thus, applicants submit that the invention solves a long-felt, unmet need in an unobvious manner.

The Invention Offers New, Disproportionate – Therefore Unexpected – Results.

By combining a popular design element with the safety features of retro-reflective materials, wearers will not only increase their safety at night, the fringe ornamentation will be nighttime visible, thereby also enhancing the design. For the first time since the existence of fringe which pre-dates the days of Butch Cassidy or Wild Bill Hickok, the fringe worn by people or used to adorn a vehicle will be visible at night when incident light is reflected off the surface. The flow of the reflected fringe will be bright and eye-catching, further enhancing it's safety value.

Thus, applicants submit that the invention introduces novel results leveraging fringe and retro-reflective materials in an unobvious manner.

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Lack of Implementation

Despite the value in the invention, those skilled in the art have not implemented it. Given the duration of time that both fringe and retro-reflective materials have existed, yet have never before been combined to improve conspicuity for people or vehicles, it stands to reason that the invention is not obvious.

Thus, applicants submit that their invention is novel, and that the lack of implementation is further evidence of its unobviousness.

Burger Reviewed

Burger's invention of bicycle streamers, Reference A, was reviewed by applicants. Burger shows streamers purely for bicycle ornamentation; no mention is made of safety features or retro-reflective material. Thus, applicants note the reference and submit that their invention solves a different problem than the reference. Applicants submit that their invention provides for a novel use of safety features incorporated into the fringe design element.

Conclusion

For all the reasons given above, applicants respectfully submit that the errors in the specification are corrected, and the claims define over the prior art under Section 102 by providing a novel device to improve conspicuity for people and vehicles. Further, the claimed distinctions are of patentable merit under Section 103 because of the new results provided of dramatically improved nighttime form and function of the fringe, making it visible at night, which improves the design

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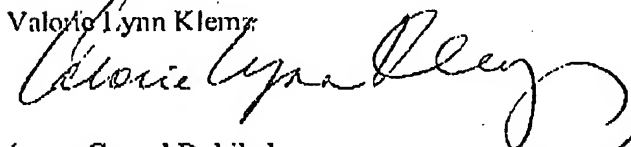
and offers added safety advantages. Accordingly, applicants submit that this application is now in full condition for allowance, which action applicants respectfully solicit.

Conditional Request for Constructive Assistance

Applicants have amended the specification and claims of this application so that they are proper, definite, and define novel structure, which is also unobvious. If, for any reason this application is not believed to be in full condition for allowance, applicants respectfully request the constructive assistance and suggestions of the Examiner pursuant to M.P.E.P. § 2173.02 and § 707.07 (j) in order that the undersigned can place this application in allowable condition as soon as possible and without the need for further proceedings.

Very respectfully,

Valerie Lynn Klemz



James Gerard Dobihal

